

REMARKS

In the Office Action dated June 11, 2010, the Examiner rejects claims 1, 12, 13, 18, 26, 34 and 35 under 35 U.S.C. § 102(e) and rejects claims 2 and 3 under 35 U.S.C. § 103(a). With this Amendment, Applicant has amended claims 5, 6, 11, 12, 14-18, 20-26, 28-31, 33, 34 and 37-39. Claim 27 is canceled, and claim 40 is added. After entry of this Amendment, claims 1-26 and 28-40 are pending in the Application. Reconsideration of the Application as amended is respectfully requested.

Changes to the drawings and specification

Applicant has made a minor amendment to the specification as filed to correct a grammatical error. Applicant respectfully requests approval of the change noted above.

Response to claim objections

The Examiner objects to claims 4-8, 14, 19-22, 27-30 and 36 as being dependent upon a rejected base claim, but the Examiner states that they would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant thanks the Examiner for this indication of allowable subject matter. Applicant has amended claim 26 to include the features of claim 27 as suggested by the Examiner. As a result, claim 27 is cancelled, and claims 28-30 are amended to depend upon claim 26. In addition, claims 28-30 and withdrawn claims 31 and 33 are amended to clarify antecedent basis. Applicant submits that claim 26 and its dependent claims are allowable. Applicant further submits that withdrawn claims 31-33 should be rejoined as they depend upon an allowable claim.

Applicant has not amended claims 4-8, 14, 19-22 and 36 to independent form as suggested by the Examiner because each of these claims is dependent upon an allowable independent claim as discussed in further detail below.

Response to rejections under 35 U.S.C. §102(3)

The Examiner rejects claims 1, 12, 13, 18, 26, 34 and 35 under 35 U.S.C. § 102(e)

as being anticipated by Breed et al. (US 7,209,221). Applicant has amended claim 26 as described previously, rendering the rejection of this claim moot. Claims 5, 6, 11, 12, 14-17, 20-25, 34 and 37-39 have each been amended to clarify antecedent basis and/or to correct typographical errors.

With respect to claims 1, 12, 13, 34 and 35, Applicant respectfully submits that Breed et al. fails to disclose, teach or suggest all of the elements of these independent claims. Each of claims 1, 12 and 34 (and claims 13 and 35 by their dependency) describes image processing where correction data is generated by extracting high spatial frequency component(s) from images and the correction data is used to remove fixed pattern noise from the images. The Examiner points to three portions of Breed et al. in support of its rejection. The Examiner first points to the Abstract, which contains no description whatsoever of the claimed features. The Examiner next points to col. 29 ll. 55-67. Once again, this portion of Breed et al. contains no description whatsoever of the claimed features. The Examiner lastly points to col. 47, line 5 – col. 48, line 55. The only discussion of image processing in the cited portion of Breed et al. reads in its entirety: “At least one model of the APS utilizes intra-pixel amplification in conjunction with both temporal and fixed pattern noise suppression circuitry...” The cited reference notes generally that “fixed pattern noise suppression circuitry” exists. However, no description of the operation of this circuitry is given. Specifically, there is no description of whether or how correction data is generated and how fixed pattern noise is removed. Applicant has carefully reviewed Breed et al. and has been unable to find support for the Examiner’s position. Because Breed et al. fails to teach or suggest all of the features of these claims, claims 1, 12 and 34 are allowable over Breed et al.

For the reasons set forth above, Applicant submits that claim 1 and its dependent claims, claim 12 and its dependent claims and claim 34 and its dependent claims are allowable over the cited reference. Applicant further submits that withdrawn claims 9-11, withdrawn claims 15-17 and withdrawn claims 37-39 should be rejoined as they depend upon allowable claims 1, 12 and 34, respectively.

With respect to claim 18, Applicant disagrees with the Examiner’s rejection for

the reasons given above in response to the Examiner's rejection of claims 1, 12 and 34. However, Applicant has amended claim 18 to more particularly and distinctly claim the subject matter therein. Specifically, claim 18 is amended to recite that each image of the plurality of images has a luminance output value for a plurality of portions of that image. Further, claim 18 now recites that correction data is generated by extracting high spatial frequency components from the luminance output values of the portions of the stored images, and fixed pattern noise is removed by computing the difference between the stored images and the correction data. Support for these features can be found at least in paragraphs [0027]-[0030], FIGS. 3A-3C and FIG. 4 of the Application as filed. Applicant respectfully submits that Breed et al. fails to teach or suggest the features of claim 18. Accordingly, claim 18 and its dependent claims are allowable over Breed et al. Applicant further submits that withdrawn claims 23-25 should be rejoined as they depend upon an allowable claim.

Response to rejections under 35 U.S.C. §103(a)

The Examiner rejects claims 2 and 3 under 35 U.S.C. §103(a) as being unpatentable over Breed et al. in view of official notice taken by the Examiner. Applicant submits that there are at least two deficiencies in the Examiner's rejection under § 103(a). First, the MPEP provides that:

Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known. ... It would not be appropriate for the examiner to take official notice of facts without citing a prior art reference where the facts asserted to be well known are not capable of instant and unquestionable demonstration as being well-known. For example, assertions of technical facts in the areas of esoteric technology or specific knowledge of the prior art must always be supported by citation to some reference work recognized as standard in the pertinent art. MPEP § 2144.03 A (emphasis in original).

Applicant respectfully submits that the Examiner's assertion of official notice is improper because the facts asserted by the Examiner are "not capable of instant and unquestionable demonstration as being well-known." Pursuant to MPEP § 2144.03 C, Applicant

requests documentary evidence of the officially-noticed facts.

Second, as discussed above, the features of claim 1, upon which claims 2 and 3 depend, are not described in Breed et al. Accordingly, the combination cannot teach or suggest all of the features of claims 2 and 3. For the foregoing reasons, Applicant respectfully submits that claims 2 and 3 are allowable over the cited references.

New claim

New claim 40 depends upon claim 1 and recites the features similar to those added to claim 18. Namely, claim 40 describes the features wherein each image of the plurality of images includes a luminance output value for a plurality of portions of that image, and wherein the controller is configured to generate the correction data by extracting the high spatial frequency components from the luminance output values of the stored images and to use the correction data to remove fixed pattern noise from the images by computing a difference between the stored images and the correction data. Support for these features can be found at least in paragraphs [0027]-[0030], FIGS. 3A-3C and FIG. 4 of the Application.

Conclusion

It is submitted that this Amendment has antecedent basis in the Application as originally filed, including the specification, claims and drawings, and that this Amendment does not add any new subject matter to the application. Reconsideration of the Application as amended is requested. It is respectfully submitted that this Amendment places the Application in suitable condition for allowance; notice of which is requested.

If the Examiner feels that prosecution of the present Application can be expedited by way of an Examiner's amendment, the Examiner is invited to contact the undersigned at the telephone number listed below.

Respectfully submitted,
YOUNG BASILE
HANLON & MACFARLANE P.C.

/Michelle L. Knight/

Michelle L. Knight
Registration No. 47711
(248) 649-3333

3001 West Big Beaver Rd., Ste. 624
Troy, Michigan 48084-3107